

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
WACO DIVISION

SITO MOBILE R&D IP, LLC and SITO
MOBILE, LTD.,

Plaintiffs,

vs.

HULU, LLC,

Defendant.

Case No. 6:20-cv-00472-ADA

JURY TRIAL DEMANDED

**DECLARATION OF CHRISTOPHER NEWTON IN SUPPORT OF
HULU'S OPPOSED MOTION TO TRANSFER TO
THE CENTRAL DISTRICT OF CALIFORNIA**

I, Christopher Newton, declare and state as follows:

1. I am currently a contract consultant for Level 3 Communications, LLC ("Level 3"). I currently reside in Westlake Village, California, which I understand is located in the Central District of California ("C.D. Cal."). The statements below are based on my personal knowledge and experience. If called as a witness, I could and would testify competently to the information contained herein.

2. I understand that SITO Mobile R&D IP, LLC and SITO Mobile, Ltd. (collectively, "SITO") filed a patent infringement lawsuit against Hulu, LLC ("Hulu") in the United States District Court for the Western District of Texas ("W.D. Tex.").

3. Beginning in 1995, I became a contractor with, and later an employee of, Sandpiper Consulting. I later became an employee of Sandpiper Networks and then Digital Island, which were acquired by Level 3 in January of 2007 after a series of acquisitions. Beginning in 1996, I and other Sandpiper Networks' employees in Westlake Village, California designed a content delivery network ("CDN") called "Footprint" (the "Footprint CDN").

4. In 1996, Sandpiper Networks' employees, including myself, worked on a near-daily basis to design, build, and implement the Footprint CDN. In February 1998, Sandpiper Networks' employees filed an application for a U.S. Patent on aspects of the Footprint CDN, which eventually issued in February 2001 as U.S. Patent No. 6,185,598. By at least May of 1998, Sandpiper Networks began caching and delivering content to clients over the Internet from the Footprint CDN. I understand that techniques developed in 1998 are still performed to this day on Level 3's CDN, including to deliver HLS and MPEG-DASH content to clients over the Internet.

5. I was personally involved in the delivery of streaming audio on behalf of one of Sandpiper Network's strategic and technical partners, Webradio, using the Footprint CDN and the HTTP protocol in April of 1999. In 1999, Sandpiper added support for proprietary streaming technology from RealNetworks to its Footprint CDN. Streaming multimedia resources, such as streaming audio, could be accomplished at least as early as 1999 on the Footprint CDN using both the HTTP protocol (as was done on behalf of Webradio) or proprietary streaming software and protocols, such as Real Networks, Quicktime and Microsoft Streaming. Such proprietary streaming software was installed in 1999 on the same caching hardware design that we used for HTTP streaming at least as early as 1998.

6. Documents and evidence relating to the Footprint CDN, including technical documents, design documents, patent disclosures, and presentation materials that were kept in the course of regularly conducted activity at Sandpiper Networks and Digital Island are located at Level 3's Westlake Village, California office within C.D. Cal. I am unaware of any relevant documents or evidence relating to the Footprint CDN located in W.D. Tex.

7. I have been informed that my testimony may be required in this action. I am willing to attend trial or hearings that require my testimony in C.D. Cal. However, attending trial or hearings that require my testimony in W.D. Tex. is inconvenient because I will need to travel from California to Texas and will likely miss several work days. Due to added travel time and the likelihood of missing several work days, I am unwilling to testify at any trials or hearings in W.D. Tex.

I declare under penalty of perjury that to the best of my knowledge the foregoing is true and correct. Executed on this 30th day in September, 2020, in Westlake Village, California.

DATED: September 30, 2020

Respectfully submitted,


Christopher Newton